

Remarks

Claims 56, 59, 74, 81, and 85 have been amended. Claims 1-44, 56-61, 66, 67, 70, 71, 74-76, 81, 82, 84-96, 101-103, 106-110, 112-122 are pending in the application, of which, claims 114-119 are allowed. In view of the foregoing amendments and the remarks that follow, Applicants respectfully request reconsideration of the rejected claims.

Allowable Subject Matter

The Examiner has indicated the allowability of the subject matter of claims 88-92. These claims depend ultimately from claim 86 which, as will be discussed in detail below, is believed to be allowable over the cited art. Claims 114-119 have been allowed.

Provisional Obviousness-Type Double Patenting Rejection

Claims 1-44, 66, 67, 70, and 71 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-22 of U.S. Patent No. 7,025,787 ("the 787 Patent"). This rejection is respectfully traversed based on two fundamental defects which are discussed below.

The first defect relates to the fact that the present application was filed before the application that matured into the '787 Patent. In particular, the present application was filed on August 8, 2001, whereas the application from which the '787 Patent issued was filed on November 25, 2002. Under the provisions of MPEP §804 II.B.1.(b), when the patent that forms the basis for the double patenting rejection is the later filed application, the Examiner must establish "two-way" obviousness, unless the Examiner can establish that an exception applies. The present Office Action omits any two-way analysis and provides no explanation as to any exception that might apply. For at least this reason, it is respectfully submitted that the double patenting rejection should be withdrawn.

The second defect is that, as to the claims of the present application, the double patenting rejection vaguely asserts that claims 1-44, 66, 67, 70, and 71 recite effectively the same invention as all of the claims of the '787 Patent, but does not identify any specific correspondence. A proper double patenting rejection must set forth a one-to-one correspondence between a pending claim of the present application and a respective one of the claims of the '787 Patent. For example, MPEP §804 explains,

Any obviousness-type double patenting rejection should make clear:

(A) The differences between the inventions defined by the conflicting claims – a claim in the patent compared to a claim in the application; and

(B) The reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim in issue is an obvious variation of the invention in a claim in the patent.

The present Office Action does not meet these requirements. In particular, as to each of Claims 1-44, 66, 67, 70, and 71, the present Office Action fails to identify a specific corresponding claim in the '787 Patent (i.e. “a claim in the patent compared to a claim in the application”), much less set forth the “differences between the inventions defined by the conflicting claims”, still less set forth any “reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim in issue is an obvious variation of the invention defined in a claim in the patent”. Moreover, for reasons given above, this would need to be a two-way analysis. For example, the rejection would need to establish that Claim A of the present application is obvious from patent Claim X, Claim B of the application is obvious from patent Claim Y, Claim C of the application is obvious from patent Claim Z, and so forth. Then, pursuant to the two-way analysis, the Office Action would need to establish that patent Claim X is obvious from Claim A of the present application, patent Claim Y is obvious from Claim B of the present application, patent Claim Z is obvious from Claim C, and so forth. The Office Action

fails to do any of this. For at least this additional reason, it is respectfully submitted that the double patenting rejection should be withdrawn.

Rejections under 35 U.S.C. §102

Claims 101-103, 106-110, 112, 113, 121, and 122

Claims 101-103, 106-110, 112, 113, 121, and 122 stand rejected under 35 U.S.C. §102(e) as being anticipated by French Reference No. 2,805,985 to Viart et al. ("the Viart reference"). The Viart reference is an invalid reference under §102 as it is not prior art to the present application. The Examiner indicates on Form PTO-892 that the effective date of Viart is its filing date of March 10, 2000. However, Viart's effective date is its publication date, rather than its filing date. With a publication date of September 14, 2001, the Viart reference does not qualify as prior art to the present application filed on August 8, 2001, under any subsection of §102. For at least this reason, the rejection of claims 101-103, 106-110, 112, 113, 121, and 122 on the basis of the Viart reference should be withdrawn.

Claims 86 and 87

Claims 86 and 87 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 5,989,291 to Ralph et al. ("the Ralph patent"). The PTO provides in MPEP §2131 that for a reference to anticipate a claim under §102, "[t]he elements must be arranged as required by the claim." As discussed in MPEP §2131, this PTO requirement reflects decisions of the PTO Board of Appeals, and also the courts. In other words, a reference underlying a §102 rejection must not only disclose each and every element of the claim, but must also disclose all those elements in a single embodiment which contains the entire combination recited in the claim. For claims 86 and 87, the Examiner has improperly based the anticipation rejection on a combination of different embodiments of the Ralph patent, e.g. the "at least one indentation (132)" of the embodiment of FIG. 6 with the "retaining post (204)" of the embodiment of FIG. 7. That is, FIGS. 6 and 7 of Ralph are two different embodiments, and the washer 130 with opening 132 in FIG. 6 is replaced in FIG. 7 with structure that includes the post 204. Because the Ralph

patent does not arrange the elements as required by the claim, the rejection of claims 86 and 87 on the basis of the Ralph patent should be withdrawn.

Claims 56-61, 81-82, 84-85, 93-96, and 120

Claims 56-61, 81-82, 84-85, 93-96, and 120 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,348,071 to Steffee et al. ("the Steffee patent"). The PTO provides in MPEP § 2131 that "[t]o anticipate a claim, the reference must teach every element of the claim...." Therefore, with respect to amended independent claims 56, 59, 81, 85, 93-96 to sustain this rejection the Steffee patent must contain all of the elements of the claim. However, the Steffee patent does not teach a central body positioned between two shells and slidable relative to at least one of the two shells as required in independent claims 56, 59, 81, and 85. Thus, for at least this reason, claims 56, 59, 81, and 85 are believed to be allowable over the Steffee patent, and notice to that effect is respectfully requested. Claims 57, 58, 60, 61, 82, 84, and 120 depend from and further limit the amended independent claims and are therefore also believed to be in condition for allowance.

The Steffee patent also does not teach a central body, "impregnated with a surface hardening substance" as recited in claims 93 and 94 or "impregnated with a surface lubricity increasing material" as recited in claims 95 and 96. Thus, for at least these reasons, claims 93, 94, 95, and 96 are believed to be allowable over the Steffee patent, and notice to that effect is respectfully requested.

Claims 74-76

Claims 74-76 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,231,609 to Mehdizadeh ("the Mehdizadeh patent"). The PTO provides in MPEP § 2131 that "[t]o anticipate a claim, the reference must teach every element of the claim...." Therefore, with respect to independent claims 74 (amended) and 75, to sustain this rejection the Mehdizadeh patent must contain all of the elements of the claim. However, the Mehdizadeh patent does not teach an opening in one of the

shells as required by independent claims 74 and 75. Thus, for at least this reason, claims 74 and 75 are believed to be allowable over the Mehdizadeh patent, and notice to that effect is respectfully requested. Claim 76 depends from and further limits claim 75 and is therefore also believed to be in condition for allowance.

Conclusion

As a result of the foregoing, it is respectfully submitted that pending claims 1-44, 56-61, 66, 67, 70, 71, 74-76, 81, 82, 84-96, 101-103, 106-110, 112-122 are all in condition for allowance. Should the Examiner deem that any further amendment is desirable to place this application in condition for allowance, the Examiner is invited to contact the undersigned at the below listed telephone number.


Respectfully submitted,

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